

**OPINION
49-137**

September 1, 1949 (OPINION)

OLD AGE AND SURVIVORS INSURANCE ACT

You have asked this office for a construction of portions of chapter 52-09 of the 1947 Supplement, usually referred to as the "old Age and Survivor Insurance Act."

There is a certain amount of confusion as to the meaning of various terms and definitions set out in the act. You will note that subsection F. of section 52-0920 undertakes to define a "fully insured individual", and you will note that section 52-0921 makes a provision as to when an employee may withdraw contributions from the fund. Section 52-0921 may be considered as a new departure in Social Security legislation as under the Federal Social Security Act there are no provisions for withdrawal of contributions.

We believe that section 52-0921, when read together with the definition of "currently insured individual", found in subsection G. of section 52-0920, should be construed to mean that when an employee who terminates covered employment before becoming fully insured, under subdivision (2) of subsection F. of section 52-0920, he may withdraw his contributions. We, therefore, believe that anyone who terminated employment prior to July 1, 1949, should be permitted to withdraw his contributions from the fund.

"A. Any individual or any widow, child, or parent of a deceased individual who employment has been insufficient to establish benefit rights under this law and who is neither fully nor currently insured may upon request withdraw from the fund the total of the employee's individual contributions paid to said fund without interest."

You now desire an opinion from this office as to the status of an employee employed in covered employment and who is not in a position to attain the age of 65 years for a long time.

It is to be noted that under the 1949 amendment the only ones who may withdraw their contributions from the fund are those whose employment has been insufficient to establish benefit rights.

As we construe the law, any employee in covered employment who has been employed for six quarters is entitled to coverage for a like number of quarters after the termination of employment. For example, if an employee dies after six quarters of covered employment and within six quarters after termination of such employment the dependents of such employee would be entitled to benefits.

In view of this, it would seem that an employee who has worked more than six quarters in covered employment has established benefit rights under the law, and that under the 1948 amendment he is deprived of the right of withdrawing contributions after having been employed six quarters or more.

By reason of the fact that the law is not clear as to the meaning of the term "fully insured individual", it is suggested that when information is requested as to the status of an employee that your division explain the effect of the law without necessarily using the term "fully insure" which in some instances may be misleading.

We are, therefore, of the opinion that if an employee is employed in covered employment for more than six quarters that such employee has established benefit rights under the law as it exists; that when such employee terminates his employment the coverage extends for as many quarters as the terminating employee was employed. After the elapse of that number of quarters, the right to benefits will cease. We believe, however, that if the terminating employee again takes up covered employment he will be entitled to benefit rights earned in his previous employment.

We make no comment on the status of an employee who has had forty quarters of coverage, as it seems clear that such employee is fully covered and is a fully insured individual.

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Attorney General